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09/416,210

10/08/1999

WILLIAM LANE

ESPD:177/GLE

5873

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7590

09/23/2003

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EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

20

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/416,210

Applicant(s)  
Lane et al.

Examiner  
Clark F. Dexter

Art Unit  
3724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 30, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 45-52 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 30, 2003 has been entered.
2. The amendment filed April 29, 2003 has been entered.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 45, 46, 48-50 and 52, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Theising, pn 5,181,446 (hereafter Theising '446).

Theising '446 discloses a fence assembly as well as a table saw with every structural limitation of the claimed invention as best understood from the claims including a fence channel (e.g., 17); a head assembly (e.g., 15) including a housing and a locking handle (e.g., 69) which

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extends from a rotatable portion (e.g., the rotatable portion designated by the cross-hatched portion surrounding the threaded portion in Figure 2, which rotatable portion is shown in Figure 1 extending through both annular bearing portions), the locking handle having a single piece construction; a locking pawl (e.g., 43) of a single piece construction; and a rod (e.g., 55). Further, Theising '446 discloses two annular bearings (e.g., 65). As best understood from Theising '446, there is a round portion (e.g., 65) on each side of the threadable interconnection (61) of rod (55). These bearing portions (e.g., 65) are clearly annular since they are generally ring shaped and include a round outer surface which slides against a curved element (67) and an opening through which the rotatable portion extends.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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6. Claim 47, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Theising, pn 5,181,446 (hereafter Theising '446).

Theising '446 lacks the locking handle being constructed out of injection-molded plastic. However, the Examiner takes Official notice that it is old and well known to construct parts from injection-molding to gain well known benefits including easier and less expensive manufacturing and reduced weight. Therefore, it would have been obvious to one having ordinary skill in the art to construct the handle 69 of Theising '446 by injection-molding for the well known benefits including those described above.

7. Claim 51, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Theising, pn 5,181,446 (hereafter Theising '446) as applied to claim 50 above, and further in view of Tautz, pn 1,938,548 (hereafter Tautz '548).

Theising '446 discloses a fence assembly with almost every structural limitation of the claimed invention including a microadjust assembly, wherein the microadjust assembly includes a knob handle (e.g., 95), a bumper (e.g., 101), a spring (e.g., 97). Theising '446 lacks the bumper comprising an elastomeric material, specifically rubber, and defining a substantially smooth outer surface and cooperating with a smooth surface on the rail. Tautz '548 discloses that it is well known to provide a bumper having a smooth surface which cooperates with the smooth surface of the fence (see page 5, lines 56-84). Such a configuration provides well known benefits including ease and reduces costs of manufacture since cooperating teeth do not have to be formed in the bumper and rail. Therefore, it would have been obvious to one having ordinary skill in the

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art to provide a bumper having a smooth surface which cooperates with the smooth surface of the fence. Further, regarding the material of the bumper, the Examiner takes Official notice that it is old and well known in the art to make such friction-type gear wheels from an elastomeric material, particularly rubber, to enhance the friction grip between the cooperating surfaces. Therefore, it would have been obvious to one having ordinary skill in the art to make the bumper from an elastomeric material, including rubber, to gain the well known benefits including that described above.

***Response to Arguments***

8. Applicant's arguments filed April 29, 2003 have been fully considered but they are not persuasive.

The Examiner respectfully maintains that Theising discloses and/or suggests every structural limitation of the claimed invention. Further, it is respectfully submitted that applicant's arguments directed to the prior art rejections, particularly those in the second and third paragraphs on page 8 of the amendment, are not understood. Contrary to applicant's statement at the end of the second paragraph, the spherical portion 65 is not both the rotatable portion and the annular bearing receiving the rotatable portion. Rather, the Examiner's position is that the cross-hatched portion shown in Figure 2 of Theising through which the rod is threaded corresponds to the claimed rotatable portion, and portions 65 of Theising correspond to the

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claimed annular bearings. A closer look at Figures 1 and 2 of Theising shows that there are two such bearing members 65 on either side of the rod 55.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers Technology Center 3700 are: after-final responses - (703)872-9303; other formal/official papers - (703)872-9302. The fax number for informal/draft papers - (703)305-9835.



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cf  
September 16, 2003